

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

LUMINATI NETWORKS LTD.,

Plaintiff,

v.

BI SCIENCE INC.,

Defendant.

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CIVIL ACTION NO. 2:18-CV-00483-JRG

MEMORANDUM OPINION AND ORDER

Before the Court is Plaintiff Luminati Networks Ltd.’s (“Luminati”) Unopposed Motion to Extend Time to Answer Counterclaims (the “Motion”). (Dkt. No. 86.) Luminati represents that it intends to file a motion to dismiss some but not all of the counterclaims asserted against it in BIScience Inc.’s (“BIScience”) Answer and, because the law is unclear as to whether a partial motion to dismiss extends the time to answer all claims under Rule 12(a)(4), Luminati filed this Motion seeking such an extension out of an abundance of caution. For the reasons set forth herein, the Court finds that the Motion should be and hereby is **DENIED-AS-MOOT**.

As an initial matter, the Court notes that the deadline to answer or otherwise respond to BIScience’s counterclaims (Dkt. No. 85 (filed May 28, 2019)) is June 18, 2019. Fed. R. Civ. P. 12(a)(1)(B). However, the Court *sua sponte* grants Luminati leave to answer or otherwise respond no later than June 19, 2019.


Moreover, while there is little authority addressing the matter, the Court agrees with the other district courts in the Fifth Circuit that have adopted “the majority rule that filing of a partial motion to dismiss extends the defendant’s time to answer the entire complaint,” or in this case, the

plaintiff's time to answer all of the defendant's counterclaims. *Iraheta v. Equifax Inf. Servs., LLC*, No. 5:17-cv-1363, 2018 WL 3381419, at *2 (W.D. La. July 10, 2018); accord *Meraz v. M. Susan Rice, P.C.*, No. SA-09-CA-138-OG, 2009 WL 10669232, at *1 (W.D. Tex. May 15, 2009) (collecting cases); see also 5B Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1346 (3d ed. 2019). Therefore, the Court finds that Luminati's anticipated filing of a partial motion to dismiss will extend the time answer all of BIScience's counterclaims pursuant to Rule 12(a)(4), if such a motion is filed by the extended deadline of June 19, 2019.

Accordingly, Luminati's Motion (Dkt. No. 86), which seeks relief already provided by Rule 12(a)(4), is **DENIED-AS-MOOT**.

So Ordered this

Jun 19, 2019



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE